JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2000-08-22-024 / NOT PRECEDENTIAL**
ID: **P0000093**
DATE: **08-22-00**
DISPOSITION: **DENIED**
TAX TYPE: **INCOME**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Upon review of the file and records, the undersigned finds:

1. That by letter dated February 29, 2000, the Division assessed income tax, interest and penalty against Protesters for the 1993 tax year.

2. That the assessment is based on information made available by the Internal Revenue Service to the Tax Commission which indicated that Protesters' federal adjusted gross income for tax year 1993 was $24,514.00. The records of the Division show that Protesters did not file and report such income on an Oklahoma state income tax return for the 1993 tax year.

3. The aggregate amount in controversy is $1,193.06, consisting of tax in the amount of $606.00, interest accrued through January 31, 2000, in the amount of $526.46, and penalty in the amount of $60.60.

4. That by letter dated March 16, 2000, MS. PROTESTER timely responded to the assessment and in a subsequent letter dated April 24, 2000, she asserts that there is no authority for the Tax Commission to receive information from the IRS, the State and the Tax Commission are perpetuating "a scheme known as Federalism . . . via what amounts to ritual magic", the IRS printout is defective and the demand is for an unproven liability.

WHEREFORE, premises considered, the undersigned concludes as a matter of law that the Tax Commission is vested with jurisdiction over the parties and subject matter of this action, 68 O.S. 1991, § 207; that a proposed assessment is presumed correct and the taxpayer bears the burden of showing that it is incorrect, and in what respect, *Enterprise Management Consultants, Inc. v. Oklahoma Tax Commission*, 768 P.2d 359 (Okl. 1988); that an income tax is imposed upon the Oklahoma taxable income of every resident and nonresident individual, 68 O.S. 1991, § 2355; that individuals who are subject to Oklahoma income tax are required to file an income tax return specifically stating taxable income and must remit the amount of tax due at the time such return is filed, 68 O.S. 1991, §§ 2368 and 2375; that when a taxpayer fails to make a report or return as required by state tax law, the Tax Commission is authorized to determine the amount of tax due for such period based on any information which is in its possession or is otherwise obtainable, 68 O.S.

1991, § 221; that the information furnished by the IRS shall be that upon which any tax liability is computed, *Oklahoma Administrative Code* 710:50-5-10(a); that the Division's proposed assessment of taxes is based on the information provided by the Internal Revenue Service to the Oklahoma Tax Commission; that the Division has acted within the applicable law and rules in determining the Protesters' income tax liability for the year at issue; and that Protesters have failed to present any evidence that the proposed assessment is erroneous.

THEREFORE, based on the above and foregoing findings and conclusions, it WAS DETERMINED that the protest of protesters, MR. PROTESTER (DECEASED) AND MS. PROTESTER, be denied. It WAS further DETERMINED that the amount in controversy, plus any additional accrued and accruing interest, be fixed as the deficiency due and owing.

OKLAHOMA TAX COMMISSION

CAVEAT: This decision was **NOT** deemed precedential by the Commission. This means that the legal conclusions are not generally applicable or are limited in time and/or effect. Non-precedential decisions are not considered binding upon the Commission. Thus, similar issues may be determined on a case-by-case basis.